

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
CHRISTINA MENZEL,

Plaintiff,

-v-

ROADGET BUSINESS PTE. LTD. et al.,

Defendants.

CIVIL ACTION NO.: 24 Civ. 860 (JGK) (SLC)

OPINION & ORDER

SARAH L. CAVE, United States Magistrate Judge.

On October 28, 2024, Plaintiff moved for leave to file a Second Amended Complaint, pursuant to Federal Rule of Civil Procedure 15(a)(2). (ECF Nos. 80–82 (the “Motion”)). The proposed amendments include: (1) adding new defendants Guangzhou Shein International Import & Export Limited (“Guangzhou Shein”) and Shenhe International Holding Group Co., Ltd. (“Shenhe”); (2) adding claims of copyright infringement against Guangzhou Shein and Shenhe; (3) identifying new infringing products; and, (4) removing Fashion Direct Corp. as a defendant in the case. (See generally ECF Nos. 81-4; 81-8). Defendants neither stipulate to nor oppose the Motion.

A court “should freely give leave” to amend a pleading “when justice so requires.” Fed. R. Civ. P. 15(a)(2). The Rule encourages courts to determine claims “on the merits” rather than disposing of claims or defenses based on “mere technicalities.” Monahan v. N.Y.C. Dep’t of Corr., 214 F.3d 275, 283 (2d Cir. 2000). The Second Circuit has explained that “district courts should not deny leave [to amend] unless there is a substantial reason to do so, such as excessive delay, prejudice to the opposing party, or futility.” Friedl v. City of New York, 210 F.3d 79, 87 (2d Cir.

2000). Courts in this District have held that denial of a motion to amend is appropriate where “(1) the movant is guilty of undue delay, (2) the movant has acted in bad faith, (3) the amendment would be futile, or (4) the amendment would prejudice the opposing party.” Procter & Gamble Co. v. Hello Prods., LLC, No. 14 Civ. 649 (VM) (RLE), 2015 WL 2408523, at *1 (S.D.N.Y. May 20, 2015) (citing State Tchrs. Ret. Bd. v. Fluor Corp., 654 F.2d 843, 856 (2d Cir. 1981)).

As an initial matter, Defendants did not respond to the Motion and, therefore, they have not shown that Plaintiff has unduly delayed filing the Motion, acted in bad faith or with dilatory purposes, or caused Defendants prejudice. See Red Black Tree, D.O.O. v. Hotel Credits, Inc., No. 22 Civ. 7834 (JGK) (SLC), 2023 WL 8039360, at *4–5 (S.D.N.Y. Nov. 20, 2023) (granting motion to amend complaint to add parties and a claim where defendants did not respond to the motion and where the proposed amendments were not plainly futile); Esmilla v. Cosmopolitan Club, No. 09 Civ. 10169 (DF), 2011 WL 814007, at *2 (S.D.N.Y. Mar. 3, 2011) (granting motion to amend to add new claims and allegations against existing defendants who did not oppose those amendments); Feliciano v. Circulation Promotion & Res., Inc., No. 98 Civ. 8727 (JGK), 1999 WL 1102798, at *1 (S.D.N.Y. Dec. 6, 1999) (granting motion to amend “without opposition from the defendant”); Barbagallo v. Gen'l Motors Corp., No. 88 Civ. 1534 (MJL), 1990 WL 100874, at *3 (S.D.N.Y. July 13, 1990) (granting motion to amend to add claim “to the extent that it is unopposed”).

Moreover, Plaintiff met the liberal standard for amendment under Rule 15(a)(2) because, at a minimum, the proposed amendments are not “so plainly futile that leave to amend would be improper” in light of discovery in this case thus far. Red Black Tree, 2023 WL 8039360, at *5 (citation omitted).

Accordingly, it is ORDERED as follows:

- (1) Plaintiff's unopposed Motion for Leave to File Second Amended Complaint (ECF No. 80) is **GRANTED**.
- (2) On or before **November 21, 2024**, Plaintiff shall separately file the Proposed Second Amended Complaint on the public docket as the operative pleading.
- (3) Defendants shall respond to the Second Amended Complaint **within fourteen (14) days from the date of service**.
- (4) On or before **December 2, 2024**, Plaintiff shall serve newly added Defendants Guangzhou Shein and Shenhe with a summons and the Second Amended Complaint, and file proof of such service on the docket.
- (5) **Within 21 days from the date of service**, Guangzhou Shein and Shenhe shall respond to the Second Amended Complaint.

The Clerk of Court is respectfully directed to close ECF No. 80.

Dated: New York, New York
November 19, 2024

SO ORDERED.


SARAH L. CAVE
United States Magistrate Judge